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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,058	10/14/2003	Theodore A. Wegert	SHT-PT003.1	7001

3624 7590 10/20/2005

VOLPE AND KOENIG, P.C.
UNITED PLAZA, SUITE 1600
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PHILADELPHIA, PA 19103

EXAMINER

LEE, GILBERT Y

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 10/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/686,058

Applicant(s)

WEGERT ET AL.

Examiner

Gilbert Y. Lee

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Election/Restrictions

1. Claims 10-33 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 9/22/05. As noted in the Office Action dated 8/29/2005, the restriction requirements were classified in separate classes because of the their distinctions.

Specification

1. The disclosure is objected to because of the following informalities: Page 5, Para. [0032], Line 14, "shown if" should be "shown in".

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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1. Claims 1 and 6-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Berry et al. (US Patent No. 6,739,094).

Regarding claim 1, the Berry et al. reference discloses a door gasket (8) comprising a magnetic gasket material (Col. 1, Lines 54-56) having at least one free surface (top surface of 8). Note that the gasket being used for an appliance door is merely intended use and the Berry et al. is capable of providing the same function. The gasket being formed-in-place is a product by process and will not be given any patentable weight.

Regarding claims 6 and 7, how the elastomer is cured is a product by process and will not be given any patentable weight. However, if the examiner were to consider the curing of the elastomer then attention would be drawn to Boldt (US Patent No. 5,667,227) and Ashizawa et al. (US Patent No. 5,004,650).

Regarding claims 8 and 9, the Berry et al. reference discloses a pair of extended sealing lips (80 and 70), wherein the sealing lips extend away from the secured surface and away from a plane passing through a center of the gasket perpendicular to the secured surface (Fig. 2). Note if a line is drawn down the middle of the gasket, perpendicular to the secured surface, the right lip will still be extending away from both the secured surface and plane.

Art Unit: 3673

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

1. Claims 2-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berry et al. in view of Rinne (US Patent No. 5,476,268).

Regarding claim 2, the Berry et al. reference discloses a magnetic gasket material, but fails to disclose a mixture of RTV in the sealant. Attention is directed to the Rinne reference, which discloses using RTV for the elastomer. To provide such an elastomer to the Berry et al. reference would have been obvious to one skilled in the art in view of the teachings of Rinne because RTV does not readily stick to metal surfaces and is capable of deforming by the application of a minor force (Col. 3, Lines 2-8 of the Rinne reference).

Regarding claims 3-5, the Berry et al. reference discloses that the magnetic material can consist of neodymium iron boron (Col. 4, Line 1).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gilbert Y. Lee whose telephone number is 571-272-5894. The examiner can normally be reached on 8:30 - 5:00, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather C. Shackelford can be reached on 571-272-7049. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

GL

10/4/2005

Vishal Patel

Patent Examiner

AU 3673

A handwritten signature in black ink, appearing to read 'Vishal Patel', is written over a horizontal line.

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